

Here are
page proofs
& final
published
pages from
Book. Note
also at p 8
promise that
no testimony
edited. The
Benavides
quote comes
from 6H453

Mr. Belin. What I mean is, is there anything that you said before the court reporter got here that you haven't included after the court reporter got here?

Mr. Benavides. No.

Mr. Belin. Anything you have said in front of the court reporter that has been different insofar as being a fact which is opposite or different in anyway from what you told me before?

Mr. Benavides. Different in wording but—

Mr. Belin. But are the facts different?

Mr. Benavides. No; I don't believe the facts are different.

There is one other aspect relating to the manner of our interrogation of witnesses while we served with the Warren Commission.

Every experienced trial lawyer knows that when trying to prove a case you are careful not to ask too many questions. One question can open up "Pandora's box."

I remember a law professor recalling the attorney who asked too many questions in defending a man charged with assault. The defendant supposedly bit the ear off a citizen in the community, and the defendant's attorney was cross-examining the only independent witness for the prosecution. After a series of skillful maneuvers, the defense attorney got the witness to admit that he had never actually seen the defendant bite the other man's ear. Then the attorney asked one question too many:

"Well, if you did not see the man bite the ear, how do you know that the defendant was the one who actually bit the man's ear?"

The response was simpler: "Because I saw him spit it out."

We never worried about such problems in our investigation. My standard procedure in interrogating witnesses was to give them every opportunity to add whatever facts they wanted. Domingo Benavides was a typical example. In the concluding portion of the testimony of Benavides, I asked him about the gunman's clothing. Between the scene of the murder and the Texas Theatre a jacket had been found, which we identified as Commission Exhibit 163. I asked Benavides to state whether that jacket bore any similarity to the jacket he saw the gunman wear. He replied, "I would say this looks just like it."

I then asked:

anything else you can think of.

Mr. Benavides. Not offhand, except later on, I don't know if I seen it on television but I believe I seen it on television where they was arresting him, the police man from the theatre. But it didn't seem like he had a jacket on there.

Mr. Belin. When he was being arrested you say he didn't have a jacket on? Now at the time you saw him, did he have a jacket on?

Mr. Benavides. He had a jacket on and it looked like that jacket there.

And then once again I asked, "Anything else?"

Benavides responded: "No. I guess that is all I can think of right now." Then there was a pause of a minute or two and Benavides added:

¹Marina Oswald later identified the jacket as Oswald's.

I think there was another car that was in front of me, a red Ford, I believe. I don't know the man, but I guess he was about 25 or 30, and he pulled over. I don't remember see him get out of his car, but when he heard the shots, I guess he was about six feet from them, and he pulled over, and I don't know if he came back there or not.

Then for a third time, I asked:

Anything else?

Mr. Benavides. That would be all. I think if anybody had seen anything really closeup, that he must have fired just as they got past him, and they must have seen him standing there, because he was right directly in front of me. And whenever you see a squad car parked like that, you think something is wrong. At least that is what comes to my mind.

Mr. Belin. Anything else?

Mr. Benavides. That is all I can think of right now that I can remember.

Mr. Belin. Pardon?

Mr. Benavides. That is all I can think of right now that I can remember.

As Domingo Benavides left the room, I pondered his testimony. On the one hand, he did not want to go to police headquarters to see a lineup because "I wasn't going to say I could identify and couldn't have." Although he might be criticized for this, he did go to the patrol car immediately after the murder and informed police headquarters over the police radio that an officer had been shot. He also returned to the scene to pick up the cartridge cases and turned them over to the police.

Benavides also turned down a request from another citizen, Ted Callaway, at the scene of the Tippit murder. Benavides told about this in the concluding portion of his testimony. I noted that earlier in his testimony he had "used the name Oswald. How did you know this man was Oswald?"

Mr. Benavides. From the pictures I had seen. It looked like a guy, a young guy. That was the reason I figured it was Oswald.

Mr. Belin. Were they newspaper pictures or television pictures, or—

neither?

Mr. Benavides. Well, television pictures and newspaper pictures. The thing was about a month, I believe, it seemed like.

Mr. Belin. Pardon.

Mr. Benavides. I showed—I believe they showed pictures of him every day for a long time there.

Mr. Belin. Did you talk to anyone at all there that witnessed what was going on?

Mr. Benavides. No; sure didn't. There was people that asked me what happened, came up in the crowd there and asked me what happened, and I said, "A policeman got shot."

Mr. Belin. You talked to Ted Callaway, did you?

Mr. Benavides. No; afterward. You know, I told you—I told him, he asked me when we went, when Ted Callaway got around there, he opened the car door and picked up the phone and called in and told them there was an officer that had been killed. But the officer on the other side of the radio told him to hang up the phone, to keep the lines clear, or something of that sort.

Then he jumped out and ran around and he asked me did I see what happened. I said yes. And he said let's chase him, and I said no.

from page proofs of you are the jury (markings not in original)

Mr. Belin. What I mean is, is there anything that you said before the court reporter got here that you haven't included after the court reporter got here?

Mr. Benavides. No.

Mr. Belin. Anything you have said in front of the court reporter that has been different insofar as being a fact which is opposite or different in anyway from what you told me before?

Mr. Benavides. Different in wording but—

Mr. Belin. But are the facts different?

Mr. Benavides. No; I don't believe the facts are different.

There is one other aspect relating to the manner of our interrogation of witnesses while we served with the Warren Commission.

Every experienced trial lawyer knows that when trying to prove a case you are careful not to ask too many questions. One question can open up "Pandora's box."

I remember a law professor recalling the attorney who asked too many questions in defending a man charged with assault. The defendant supposedly bit the ear off a citizen in the community, and the defendant's attorney was cross-examining the only independent witness for the prosecution. After a series of skillful maneuvers, the defense attorney got the witness to admit that he had never actually seen the defendant bite the other man's ear. Then the attorney asked one question too many:

"Well, if you did not see the man bite the ear, how do you know that the defendant was the one who actually bit the man's ear?"

The response was simple: "Because I saw him spit it out."

We never worried about such problems in our investigation. My standard procedure in interrogating witnesses was to give them every opportunity to add whatever facts they wanted. Domingo Benavides was a typical example. In the concluding portion of the testimony of Benavides, I asked him about the gunman's clothing. Between the scene of the murder and the Texas Theatre a jacket had been found, which we identified as Commission Exhibit 162. I asked Benavides to state whether that jacket bore any similarity to the jacket he saw the gunman wear. He replied, "I would say this looks just like it."

I then asked: "Anything else you can think of?"

Mr. Benavides. Not offhand, except later on, I don't know if I seen it on television but I believe I seen it on television where they was arresting him, the policeman from the theatre. But it didn't seem like he had a jacket on there.

Mr. Belin. When he was being arrested you say he didn't have a jacket on? Now at the time you saw him, did he have a jacket on?

Mr. Benavides. He had a jacket on and it looked like that jacket there.

And then once again I asked, "Anything else?"

Benavides responded: "No, I guess that is all I can think of right now." Then there was a pause of a minute or two and Benavides added:

Benavides: Oswald later identified the jacket as Oswald's.

I think there was another car that was in front of me, a red Ford, I believe. I didn't know the man, but I guess he was about 25 or 30, and he pulled over. I didn't never see him get out of his car, but when he heard the scare, I guess he was about six cars from them, and he pulled over, and I don't know if he came back there or not.

Then for a third time, I asked: "Anything else?"

Mr. Benavides. That would be all. I think if anybody had seen anything really close up, that he must have fired just as they got past him, and they must have seen him standing there, because he was right directly in front of me. And whenever you see a squad car parked like that, you think something is wrong. At least that is what comes to my mind.

Mr. Belin. Anything else?

Mr. Benavides. That is all I can think of right now that I can remember.

Mr. Belin. Pardon?

Mr. Benavides. That is all I can think of right now that I can remember.

As Domingo Benavides left the room, I pondered his testimony. On the one hand, he did not want to go to police headquarters to see a lineup because "I wasn't going to say I could identify and couldn't have." Although he might be criticized for this, he did go to the patrol car immediately after the murder and informed police headquarters over the police radio that an officer had been shot. He also returned to the scene to pick up the cartridge cases and turned them over to the police.

Benavides also turned down a request from another citizen, Ted Callaway, at the scene of the Tippit murder. Benavides told about this in the concluding portion of his testimony. I noted that earlier in his testimony he had "used the name Oswald. How did you know this man was Oswald?"

Mr. Benavides. From the pictures I had seen. It looked like a guy, resembled the guy. That was the reason I figured it was Oswald.

Mr. Belin. Were they newspaper pictures or television pictures, or both, or neither?

Mr. Benavides. Well, television pictures and newspaper pictures. The thing lasted about a month, I believe, it seemed like.

Mr. Belin. Pardon.

Mr. Benavides. I showed—I believe they showed pictures of him every day for a long time there.

Mr. Belin. Did you talk to anyone at all there that witnessed what was going on?

Mr. Benavides. No; sure didn't. There was people that asked me what happened, came up in the crowd there and asked me what happened, and I said just the policeman got shot.

Mr. Belin. You talked to Ted Callaway, did you?

Mr. Benavides. No; afterward. You know, I told you—I told him, he asked me when we went, when Ted Callaway got around there, he opened the car door and picked up the phone and called in and told them there was an officer that had been killed. But the officer on the other side of the radio told him to hang up the phone to keep the lines clear, or something of that sort.

Then he jumped out and ran around and he asked me did I see what happened, and I said yes. And he said let's chase him, and I said no.

from published version you are the jury

Mr. Rankin. Now, do you remember as you turned off of the main street onto Houston Street?

Mrs. Kennedy. I don't know the name of the street.

Mr. Rankin. That is that one block before you get to the Depository Building.

Mrs. Kennedy. Well, I remember whenever it was, Mrs. Connally said, "We will soon be there." We could see a tunnel in front of us. Everything was really slow then. And I remember thinking it would be so cool under that tunnel.

Mr. Rankin. And then do you remember as you turned off of Houston onto Elm right by the Depository Building?

Mrs. Kennedy. Well, I don't know the names of the streets, but I suppose right by the Depository is what you are talking about?

Mr. Rankin. Yes; that is the street that sort of curves as you go down under the underpass.

Mrs. Kennedy. Yes; well, that is when she said to President Kennedy, "You certainly can't say that the people of Dallas haven't given you a nice welcome."

Mr. Rankin. What did he say?

Mrs. Kennedy. I think he said—I don't know if I remember it or I have read it, "No, you certainly can't," or something. And you know then the car was very slow and there weren't very many people around.

And then—do you want me to tell you what happened?

Mr. Rankin. Yes; if you would, please.

Mrs. Kennedy. You know, there is always noise in a motorcade and there are always motorcycles beside us, a lot of them backfiring. So I was looking to the left. I guess there was a noise, but it didn't seem like any different noise really because there is so much noise, motorcycles and things. But then suddenly Governor Connally was yelling, "Oh, no, no, no."

Mr. Rankin. Did he turn toward you?

Mrs. Kennedy. No; I was looking this way, to the left, and I heard these terrible noises. You know. *And my husband never made any sound . . .* [emphasis added]

Now, members of the jury, instead of asking whether you believe Secret Service agent Kellerman or Secret Service agent Greer, I will restate the question: Whom do you believe? Secret Service agent Roy Kellerman on the one hand, or Mrs. Kennedy, Governor Connally, Mrs. Connally and Secret Service agent Greer on the other?

And I will leave one additional question. Why, in discussing this vital point, did Mr. Epstein leave out the testimony of Mr. Greer, Governor Connally, Mrs. Connally and Mrs. Kennedy?

Verbatim testimony in this book has been included as it was recorded by the official court reporters transcribing the testimony and as it was published by the United States Government Printing Office in the 26 volumes of testimony and exhibits that were published by the President's Commission on the Assassination of President Kennedy together with the Report. No attempt has been made to correct spelling, punctuation, or other grammatical errors, or to correct misunderstandings by the court reporters such as "lighter" instead of "litter", etc.

2 "TRUTH IS OUR ONLY GOAL"

The Assassination of John Fitzgerald Kennedy on November 22, 1963, was a cruel and shocking act of violence directed against a man, a family, a nation, and against all mankind. A young and vigorous leader whose years of public and private life stretched before him was the victim of the fourth Presidential assassination in the history of a country dedicated to the concepts of reasoned argument and peaceful political change. This Commission was created on November 29, 1963, in recognition of the right of people everywhere to full and truthful knowledge concerning these events. This report endeavors to fulfill that right and to appraise this tragedy by the light of reason and the standard of fairness. It has been prepared with a deep awareness of the Commission's responsibility to present to the American people an objective report of the facts relating to the assassination.

This was the opening paragraph of Chapter I of the Warren Commission Report. It was a declaration of the frame of reference within which we conducted our investigation and wrote this report.

Our frame of reference was established in our first meeting with our chairman, Chief Justice Warren. Regardless of what we found, regardless of how the chips might fall, the Chief Justice said, our only concern was for the truth. We took him at his word. "Truth is our only goal," he said.

The key word was "only." To be sure, in a trial, when examining or cross-examining a witness, I was always concerned with the truth—"the whole truth, and nothing but the truth, so help you God." But my concern was never merely for the sake of the truth itself. There were always other considerations, principally: How does this affect my client? What further steps must be taken in light of the facts to win the lawsuit?

But here there was no lawsuit to win, no special client to serve. We were 14 lawyers selected from across the country. Our only goal was to find the truth, the whole truth, and nothing but the truth—for the sake of finding the truth.

For us lawyers, in contrast to the commissioners, there were no outside influences that might affect our work. We had no government position to protect, no political axe to grind. We were not concerned with judicial precedent. We had no special client paying our fee. If we had any client, it was 190 million Americans who wanted to know the whole truth about the murder of their President. Beyond our shores, people throughout the world also wanted the facts.

Earl Warren spoke with great warmth and sincerity in that first meeting in

Spectrographic tests involve, of course, burning the substance and capturing the light on a photographic plate to determine what metallic ions are present. This was done by our spectrographic section, and again the paper of Commission Exhibit 677, the paper sample, secured Nov. 22, was found to be similar spectrographically to the paper of the sack, Commission Exhibit 142.

Now, these were additional tests, the original examinations, under visual and ultraviolet light, were made by me on Nov. 23, 1963. Fiber analysis and the spectrographic examination was conducted on Mar. 25, 1964.

Mr. Eisenberg. Have you now reviewed all the points in which you compared the paper sack obtained from the TSB, Exhibit 142, and the known sample obtained on Nov. 22, Exhibit 677?

Mr. Cadigan. Yes.

Mr. Eisenberg. Did you find any points of nonidentity?

Mr. Cadigan. No; I found none.

Mr. Eisenberg. They were identical on every point on which you measured them?

Mr. Cadigan. Yes.

The evidence was clear: The homemade paper bag found near the southeast corner window of the sixth floor of the TSB Building had been made from paper available on the first floor of the building and used to wrap books. Lee Harvey Oswald had access to that paper. He also had access to the sixth floor, where the cartridge cases and rifle were found. Lee Harvey Oswald's prints were on the bag. Oswald owned the gun used in the assassination. The last time Oswald was seen by any employee prior to the assassination was by Charles Givens, approximately 35 minutes before the President's motorcade started down Elm Street toward the triple underpass. Oswald was then on the sixth floor—the place from which the shots were fired.

The next time that Oswald was seen by anyone inside the TSB Building was on the second floor at approximately 12:32 PM. Let us find out what took place as we examine the other side of the FBI.

31

"IT WAS A LITTLE STRANGE
THAT ONE OF THE
WAREHOUSE BOYS WOULD BE
UP IN THE OFFICE"

Millions of Americans have seen a weekly television series on the Federal Bureau of Investigation. Millions have seen movies concerning the work of the FBI. And in pre-television days millions of Americans regularly listened to a weekly radio program about the Bureau. Hundreds of thousands of visitors in Washington each year are conducted on tours of the FBI Headquarters.

The television programs, the movies, the radio programs, the tours, have all left their mark. Has there ever been a television show, a radio script, a movie or a tour that mentions mistakes as well as masterful exploits?

No one denies that the FBI is an outstanding organization. J. Edgar Hoover took it out of the political pork barrel and transformed it into a law enforcement agency with the highest professional standards in this country.

But there is another side to the FBI—a side that J. Edgar Hoover never discussed—a side that a vigilant society must constantly keep in mind. It is a side that has never before been documented by an independent investigation because prior to our work with the Warren Commission, no such independent appraisal had ever been made. To put it bluntly, the FBI at times is inaccurate in its reporting and at times is incomplete in its investigation. It does not happen often—but it happens.

The best-known instance of inaccurate reporting by the FBI in the course of the investigation of the assassination of President Kennedy is the Bureau's report of the autopsy of President Kennedy. On page 88 of our Report you will read this reference to the first bullet that struck the President near the base of the back of his neck:

Concluding that a bullet passed through the President's neck, the doctors at Bethesda Naval Hospital rejected a theory that the bullet lodged in the large muscles in the back of his neck and fell out through the point of entry when external heart massage was applied at Parkland Hospital. In the earlier stages of the autopsy, the surgeons were unable to find a path into any large muscle in the back of the neck. At that time they did not know that there had been a bullet hole in the front of the President's neck when he arrived at Parkland Hospital because the tracheotomy incision had completely eliminated that evidence. While the autopsy was being performed, surgeons learned that a whole bullet had been found at Parkland Hospital on a stretcher which, at that time, was thought to be the stretcher occupied by the President. This led to speculation that the bullet might have penetrated a short

Oswald never mentioned in book. Note statement at p 254